

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA (ATLANTA)

BENJAMIN EVANS,)	
)	
Plaintiff,)	
v.)	
)	
TRANSWORLD SYSTEMS, INC.)	Case No. 1:19-cv-04366
and ROOSEN, VARCHETTI &)	
OLIVIER-GA PLLC,)	
)	
Defendants.)	
)	

**TRANSWORLD SYSTEMS INC.’S
MOTION FOR LEAVE TO ALLOW OUT OF TIME
SUMMARY JUDGMENT MOTION PURSUANT TO RULE 6(B)(1)**

NOW COMES defendant, Transworld Systems Inc. (“TSI”), through undersigned counsel and pursuant to Fed. R. Civ. P. 6(b)(1)(B), and respectfully moves the Court for leave to allow it to file an out of time summary judgment motion.

TSI’s summary judgment motion was filed a single business day late due to excusable neglect. Under L.R. 7.1, the deadline to file summary judgment motions was the Friday after Thanksgiving. However, undersigned counsel’s case management software erroneously listed the Friday after Thanksgiving as a holiday, causing the calendared summary judgment deadline to advance to the next business day – Monday, November 30, 2020, when TSI’s summary judgment motion was

filed. *See* ECF 84. The error was a simple inadvertent, good faith calendaring error, which caused a delay of a single-business day.

In support of its motion, TSI incorporates its arguments from its Reply in Support of its Motion for Summary Judgment and states as follows:

1. Pursuant to the Court's September 22, 2020 Order granting the parties' joint request to extend discovery until October 28, 2020 (*see* ECF 72), the deadline to complete discovery was October 28, 2020.

2. Neither the parties' joint motion to extend discovery, nor the Court's Order granting the parties' motion, set forth a specific date by which the parties must file summary judgment motions.

3. Accordingly, pursuant to Local Rule 7.1, summary judgment motions were due 30 days after discovery ended. Thirty days after October 28, 2020 was Friday, November 27, 2020 – the day after Thanksgiving.

4. Undersigned counsel for TSI calendared the deadline to file summary judgment motions and fully intended to file a summary judgment motion. However, unbeknownst to undersigned counsel, November 27, 2020 was erroneously listed as a holiday on her firm's case management and calendaring system, which caused the

calendared deadline to file summary judgment motions to automatically roll over to the next business day – Monday, November 30, 2020.¹

5. Undersigned counsel for TSI, believing in good faith the summary judgment deadline was Monday, November 30, 2020, filed TSI's motion for summary judgment on Monday, November 30, 2020, and only realized the error when plaintiff's opposition to TSI's summary judgment motion was filed.

6. The delay in filing TSI's summary judgment motion by a single business day late was inadvertent and made in good faith and not to cause a delay or gain any advantage. It was a simple calendaring mistake.

7. The Court has not set any deadlines that will be affected by allowing TSI's summary judgment motion, and no trial date has been set.

WHEREFORE, TSI respectfully requests the Court allow it's out of time summary judgment motion due to excusable neglect, and for any other relief the Court deems proper.

¹ Indeed, Friday, November 27, 2020 is a holiday in many courts—including other divisions of this Court.

Dated: January 4, 2021

Respectfully Submitted,

/s/ Kirsten H. Smith

Kirsten H. Smith (#702220)
SESSIONS, ISRAEL & SHARTLE
3850 N. Causeway Blvd., Suite 200
Metairie, Louisiana 70002
Telephone: (504) 846-7943
Facsimile: (504) 828-3737
Email: ksmith@sessions.legal
*Counsel for Defendant,
Transworld Systems Inc.*

CERTIFICATE OF SERVICE AND COMPLIANCE

I hereby certify that on January 4, 2021, a copy of the foregoing was served on all parties of record electronically via CM/ECF.

I additionally certify that the above-referenced document has been prepared in Times New Roman (14 point) font and this satisfies the font size requirements of this Court.

/s/ Kirsten H. Smith

Kirsten H. Smith
*Counsel for Defendant,
Transworld Systems Inc.*